IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1385 of 2002

Between:

Ch.S.R. Anjaneyulu, S/o. Sri Satyanarayana,
Hindu College, Guntur.

..... PETITIONER

AND

1 The Commissioner/Director of Collegiate Education,
Govt. of A.P., Hyderabad.
2 Hindu College, Rep.by its Secretary and Correspondent,
Guntur.
3 Govt. of A.P., Rep.by its Secretary,
Higher Education, Secretariat Buildings,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of Writ of Mandamus, declaring the action of the 1st and 3rd respondents in not absorbing the petitioner as lecturer in commerce in the existing aided vacancy in the 2nd respondent college as illegal, arbitrary, discriminatory and against the provisions of Articles 14 and 16 of The Constitution of India and consequentially direct the respondents to absorb the petitioner as lecturer in commerce in the existing grant-in-aid post in the 2nd respondent college and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.V.S.S.S.RAMA RAO

Counsel for the Respondents No.1 & 3: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.2: None appeared

The Court made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 1385 of 2002

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O R D E R:

The writ petition is filed seeking to declare the action of the 1st and 3rd respondents in not absorbing the petitioner as a Lecturer in Commerce in the existing aided vacancy in the 2nd respondent college as illegal and arbitrary and for a consequential direction to absorb the petitioner as Lecturer in Commerce in the existing grant-in-aid post in the 2nd respondent college.

Heard the learned counsel for the petitioner and the learned Government Pleader for Higher Education.

The case of the petitioner is that in pursuance of the notification issued by the 2nd respondent he was given appointment in the post of Lecturer in Commerce in unaided vacancy. The 2nd respondent issued notification after obtaining permission from the 1st respondent for filling up the vacancies. The selection committee met on 5.5.2001 to conduct selections and the petitioner was selected as Lecturer in Commerce. Thereafter when an aided vacancy has arisen in the Commerce Department, the 2nd respondent addressed a letter to the 1st respondent on 15.09.2001 to absorb him in the grant-in-aid post in the existing vacancy but the 1st respondent has not passed any orders so far. The further case of the petitioner is that he has undergone the selection process as laid down in G.O.Ms.No. 12

dated 10.1.1992. The selection procedure is the same for both aided and unaided vacancies. In respect of some other lecturers, the Government has accorded permission but the same relief is not being extended to the petitioner and therefore the action of the 1st and 3rd respondents is discriminatory.

The respondents filed a detailed counter affidavit stating that permission was accorded to the 2nd respondent to fill up certain posts as purely unaided posts of Lecturers duly following the conditions laid down in G.O.Ms.No. 119 dated 22.3.1991 and G.O.Ms.No.12 dated 10.1.1992. The unaided post of Lecturer in Commerce held by the petitioner against which he was recruited through a properly constituted selection committee is one among those un-aided posts permitted to be filled. While giving permission it was clearly stated that the expenditure in this regard will have to be met by the Management only and there will not be any financial commitment on the part of the Government. The petitioner cannot claim for admission of his post into grant-in-aid and regularization of his services with regard to the said post. The Management of the College can pay him salary and allowances on par with other aided Lecturers from its own funds, but the petitioner cannot claim the same from the Government. The petitioner is not a Part-time Lecturer to claim regularization on par with those Part-time Lecturers whose services are regularized. Hence the writ petition is liable to be dismissed.

Learned counsel for the petitioner contended that in respect of Lecturers in some other Colleges, the Government has given permission to absorb the Lecturers who are initially appointed as unaided lecturers into grant-in-aid posts and that the case of the petitioner is also similarly situated. Hence he prays to allow the writ petition.

Learned Government Pleader for Higher Education contended that the petitioner cannot claim for admission into the post in grant-in-aid and regularization of his services against the said post

and there should not be any financial commitment on the part of the Government. It is also stated that the Management of the College can pay him salary and allowances on par with other aided Lecturers from its own funds.

The factual matrix is not seriously disputed. As a matter of fact, the 2nd respondent vide letter dated 15.9.2001 addressed to the Commissioner & Director of Collegiate Education i.e. the 1st respondent herein, requested to give permission to absorb the present petitioner, who is an unaided Lecturer in Commerce, into grant-in-aid against the existing vacancy in the Department of Commerce and issue necessary directions at an earlier date.

Whether the petitioner is liable to be absorbed into grant-in-aid against the existing aided vacancy and whether he was selected by a duly constituted selection committee are required to be decided by the 1st respondent in accordance with the Rules and Regulations. Therefore, without entering into the merits of the case, the writ petition is disposed of with a direction to the 1st respondent to take appropriate decision within two months from the date of receipt of a copy of this order in accordance with the Rules and Regulations.

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K.C. Bhanu, J.

Date: 13—06—2005.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner/Director of Collegiate Education,

Govt. of A.P., Hyderabad.

2 The Secretary and Correspondent Hindu College,
Guntur.

3 The Secretary,Govt. of A.P.,
Higher Education, Secretariat Buildings,
Hyderabad.

4 2 CD copies

5. two CCs to the Government Pleader for Higher Education, High Court of A.P Buildings, Hyderabad (OUT)